

Message Text

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ACTION DLOS-09

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INFO USDEL LOS COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 03383

FROM LOSDEL

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS CONFERENCE WEEKLY SUMMARY - AUGUST 21-25

SUMMARY: THE LOS CONFERENCE GOT OFF TO A SATISFACTORY
START AS THE MAJOR NEGOTIATING GROUPS IMMEDIATELY BEGAN
SUBSTANTIVE DISCUSSION. THE FIRST COMMITTEE SEABED QUES-
TIONS REMAIN THE MOST CONTENTIOUS ISSUES BUT A RESOLUTION
OF THE CONTINENTAL MARGIN PROBLEM IS ALSO A PRIMARY TAR-
GET AT THIS SESSION. THE THIRD COMMITTEE MADE PROGRESS ON
POLLUTION AMENDMENTS. THE US AND SOVIET EXPERTS CONTI-
NUED COOPERATION TOWARD A DISPUTE SETTLEMENT REGIME FOR
BOUNDARY DELIMITATION. END SUMMARY.

1. COMMITTEE I - TAKING UP THE FIRST COMMITTEE WORK SEEM-
INGLY WITHOUT A BREAK FROM GENEVA, NEGOTIATING GROUPS 1,
2 AND 3 RESUMED DISCUSSIONS ON THE SEABED REGIME. NG-1
BEGAN REVIEWING ANNEX II BUT ONLY AFTER THE US AND OTHER
INDUSTRIALIZED COUNTRIES MADE IT CLEAR THAT THE GENEVA
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NG-1 TEXTS WOULD HAVE TO BE TAKEN UP AGAIN IN FUTURE SES-
SIONS. THE US SUPPORTED THE CHAIRMAN'S DECISION NOT TO
RE-OPEN THE GENEVA TEXTS AT THIS TIME IN ORDER TO PRE-
SERVE THE MODEST IMPROVEMENTS THEY EMBODY. IT IS CLEAR,
HOWEVER, THAT MANY OF THE NG-1 GENEVA PROVISIONS REMAIN
UNSATISFACTORY.

2. IN NG-1, TEN TOPICS WERE OUTLINED FOR DISCUSSION: TIME PERIOD FOR RECEIPT OF APPLICATIONS; ASCERTAINMENT BY THE AUTHORITY OF THE QUALIFICATIONS OF APPLICANTS; PROCEDURES IN THE CASE OF A SINGLE APPLICATION; PROCEDURES IN THE CASE OF MULTIPLE APPLICATIONS; NEGOTIATION OF CONTRACTS; SEPARATE STAGES OF OPERATION; JOINT VENTURES; THE BANKING SYSTEM; FINANCIAL INCENTIVES FOR JOINT VENTURES; AND QUOTA/ANTI-MONOPOLY. NJENGA INVITED "INTERESTED DELEGATIONS" TO PROVIDE HIM WITH "CONCRETE PROPOSALS" FOR A QUOTA/ANTI-MONOPOLY CLAUSE.

3. NG-2 BEGAN ITS WORK EXPEDITIOUSLY AND COVERED THREE SUBJECTS: THE APPLICATION FEE, THE ANNUAL FIXED CHARGE TO MINE AND PAYMENT TO THE AUTHORITY THROUGH A ROYALTY-ONLY SYSTEM. NO FIRM CONCLUSIONS WERE REACHED ON ANY OF THESE SUBJECTS BUT DISCUSSION WAS, IN GENERAL CONSTRUCTIVE IF SOMEWHAT ABSTRACT.

4. ON THE APPLICATION FEE, THE OLD POSITIONS OF \$100,000 VERSUS \$500,000 WERE BROUGHT OUT BY THE EEC AND THE G-77 RESPECTIVELY. THE US MAINTAINED ITS FORMER PROPOSAL OF \$500,000. THERE WAS CONSENSUS THAT THE FEE SHOULD ONLY COVER COSTS OF PROCESSING AN APPLICATION AND THAT IT SHOULD BE REVIEWED PERIODICALLY IN ORDER TO MAKE SURE THAT THE CHARGE WAS NOT TOO MUCH OR TOO LITTLE FOR THIS PURPOSE.
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5. ON THE ANNUAL FIXED FEE TO MINE, THE G-77 WANTED A SUBSTANTIAL FEE IN ORDER TO HELP FUND THE ENTERPRISE. THE US AND OTHER INDUSTRIALIZED COUNTRIES, HOWEVER, OPPOSED THE FEE BECAUSE THERE ARE OTHER PROVISIONS FOR FINANCING THE ENTERPRISE BY STATE SUBSCRIPTIONS OF REFUNDABLE PAID-IN CAPITAL. THE CONSENSUS LIKELY TO EMERGE IS FOR A MINIMAL FEE OF APPROXIMATELY \$1 MILLION WHICH SHOULD BE CREDITABLE AGAINST ROYALTY PAYMENTS.

6. ON THE ROYALTY-ONLY MODE OF PAYMENT, WHICH PRIMARILY AFFECTS THE USSR, THE DEVELOPING COUNTRIES LED BY BRAZIL ADVOCATED THAT THIS CHARGE SHOULD BE SUBJECT TO REVIEW SO THAT THE AUTHORITY WILL BENEFIT IF MINING PRODUCTIVITY INCREASES. THE SOVIET UNION DID NOT RECEIVE THIS IDEA ENTHUSIASTICALLY AT FIRST, BUT LATER INDICATED THAT IT MIGHT BE ABLE TO ACCEPT REVIEW WITHIN CERTAIN LIMITS.

7. THE ATMOSPHERE IN THE NG-1 WAS RELATIVELY CONSTRUCTIVE, ALTHOUGH NOT AS POSITIVE AS IT WAS TOWARD THE END OF THE GENEVA MEETING. MANY OF THE G-77 NEGOTIATORS (SUCH AS JAGOTA (INDIA), THOMPSON-FLORES

(BRAZIL) AND HAGUE (PAKISTAN), HOWEVER, STILL ESPOUSE
RADICAL NOTIONS ABOUT HOW MUCH MONEY CAN BE SQUEEZED FROM
THE SYSTEM AND CONTINUE TO PROPOSE UNREALISTIC AND ONEROUS
FINANCIAL ARRANGEMENTS. INDIA, FOR EXAMPLE, MAINTAINS
ITS \$60 MILLION BONUS PAYMENT IDEA IN SPITE OF ALL THE
FACTS AGAINST IT.

8. NG-3'S DISCUSSION OF THE SUBSIDIARY ORGANS OF
THE COUNCIL (ARTICLES 161-164) ELICITED SUGGESTIONS TO
STREAMLINE THE ORGANS INCLUDING POSSIBLY ELIMINATING THE
RULES AND REGULATIONS COMMISSION. HOWEVER, PERU AND
COLOMBIA, AS WELL AS TRINIDAD AND TOBAGO AND THE
FRG, SUGGESTED THAT A SEPARATE FINANCIAL COMMISSION MAY
BE NEEDED. THE USUAL DICHOTOMY EXISTED BETWEEN THE
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DEVELOPING STATES (STRESSING EQUITABLE GEOGRAPHIC DIS-

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C O N F I D E N T I A L SECTION 02 OF 03 USUN NEW YORK 03383

TRIBUTION AS A CRITERION FOR MEMBERSHIP ON THE TECHNICAL
COMMISSIONS) AND THE INDUSTRIALIZED STATES,(SUCH
AS THE US AND JAPANWHICH EMPHASIZED EXPERT QUALIFICA-
TIONS). MUCH MORE WORK REMAINS TO BE DONE ON THIS TOPIC.

9. COMMITTEE II - DURING THE FIRST WEEK OF COMMITTEE II ACTIVITIES ATTENTION WAS FOCUSED PRIMARILY ON THE ISSUE OF DEFINITION OF THE OUTER LIMIT OF THE CONTINENTAL SHELF (NG-6). FOR THE FIRST TWO MEETINGS OF THIS GROUP, THERE WERE NO SUBSTANTIVE INTERVENTIONS, TIME BEING ALLOWED BY CHAIRMAN AGUILAR FOR DELEGATIONS TO CONSULT PRIVATELY SEEKING POSSIBLE COMPROMISES. AT THE CLOSE OF THE GENEVA PHASE OF THE SEVENTH SESSION, SOVIET OPPOSITION TO THE IRISH FORMULA PREVENTED A FINAL RESOLUTION OF THE PROBLEM BASED UPON THAT FORMULA WITH A SYSTEM OF REVENUE SHARING. PRIVATE CONSULTATIONS WITH THE SOVIETS, PLUS THEIR INTERVENTION LATER IN THE WEEK INDICATED THAT THEY ARE NOT YET READY TO FIND A COMPROMISE. AT THE THIRD MEETING OF NG-6, THE US LED OFF THE DISCUSSION BY SUPPORTING THE IRISH FORMULA, BUT MAKING IT CLEAR THAT THE ANSWER TO THE PROBLEM LIES IN ALLOCATING TO THE COASTAL STATE ALL OF THE CONFIDENTIAL

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NATURAL RESOURCES ON ITS SHELF WHILE AT THE SAME TIME RESERVING A FAIR SHARE OF THE REVENUES AND NON-RESOURCE RELATED RIGHTS TO OTHER STATES. THE SOVIETS, SECONDED, BY THE EASTERN EUROPEANS, INSISTED THAT IN NO EVENT COULD COASTAL STATE RIGHTS EXTEND BEYOND 100 NAUTICAL MILES OUTSIDE THE OUTER LIMIT OF THE ECONOMIC ZONE. THE SOVIETS RECEIVED NO NON-BLOC SUPPORT, WHILE BACKING FOR THE IRISH FORMULA WAS BROAD AND INCREASING. ONE MEETING OF NG-7 WAS HELD TO OPEN THE DISCUSSION OF DELIMITATION OF BOUNDARIES BETWEEN OPPOSITE AND ADJACENT STATES. THE DISCUSSION MADE CLEAR THAT THE DEEP SPLIT REMAINS BETWEEN THOSE STATES SUPPORTING THE EQUIDISTANCE PRINCIPLE AND THOSE SUPPORTING THE EQUITY PRINCIPLE.

10. DURING THE WEEK OF AUGUST 28 - SEPTEMBER 1, THE COMMITTEE IS EXPECTED TO CONCLUDE THE ARTICLE-BY-ARTICLE DISCUSSION OF THE COMMITTEE II TEXT, FOCUSING PRIMARILY ON ISLANDS AND ENCLOSED AND SEMI-ENCLOSED SEAS.

11. THE THIRD COMMITTEE RESUMED WORK IN INFORMAL MEETINGS CHAIRED BY JOSE VALLARTA (MEXICO). VALLARTA IS AN EXPERIENCED HAND IN THESE NEGOTIATIONS AND, AS AN INFORMED REPRESENTATIVE OF A SIGNIFICANT G-77 STATE, PLAYS AN EFFECTIVE ROLE IN BALANCING THE CONCERNS OF ALL INTERESTED STATES. THE MOMENTUM OF THE GENEVA PHASE WAS CONTINUED IN A BUSINESS-LIKE ATMOSPHERE. THE GROUP AUTHORIZED VALLARTA TO INFORM THE CHAIRMAN OF THE THIRD COMMITTEE (YANKOV - BULGARIA) THAT THE PROPOSAL TO AMEND ARTICLE 212 (2) BIS RELATING TO REGIONAL PORT ENTRY ENFORCEMENT PROCEDURES WAS CONSIDERED TO HAVE ACHIEVED CONSENSUS AND SHOULD BE PLACED IN CATEGORY I. THE PROPOSAL FOR ARTICLE 222 (MEASURES RELATING TO MARITIME CASUALTIES TO AVOID

POLLUTION) RECEIVED A SIMILAR RECOMMENDATION FROM THE
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GROUP. ALL OF THE PROPOSALS CARRIED IN CATEGORY II AND III
OF THE CHAIRMAN'S REPORT TO PLENARY AT THE CONCLUSION OF
THE GENERAL PHASE WERE CONSIDERED DURING THE WEEK, WITH
DISCUSSION OF AN ARAB PROPOSAL TO AMEND ARTICLE 136
BEING PUT OFF
UNTIL THE SECOND WEEK. (MANY DELEGATIONS DISLIKE THE ARAB
SUGGESTION BUT WANT TO AVOID OFFENDING THESE PETROLEUM
STATES.) AN ARAB PROPOSAL TO DELETE PARAGRAPH 8 OF
ARTICLE 221 WAS CONSIDERED TO HAVE BEEN WITHDRAWN.
EFFORTS TO ACHIEVE CONSENSUS ON THESE OUTSTANDING ISSUES
ARE BEING CONTINUED IN A SMALLER VALLARTA WORKING GROUP
IN WHICH THE US PARTICIPATES. PRIMARY OP-
POSITION TO THE REMAINING US CATEGORY II PROPOSALS TO
AMEND ARTICLE 221 (6) AND ARTICLE 231 CAME FROM IRAQ AND
PERU. IN CATEGORY III THERE IS LITTLE LIKELIHOOD THAT
ANY OF THE PROPOSALS ARE CAPABLE OF ATTAINING CATEGORY I
STATUS, ALTHOUGH A BRAZILIAN PROPOSAL TO MODIFY ARTICLE
221 PARAGRAPH 5, AND A CANADIAN REDRAFT OF PARAGRAPH 5
OF ARTICLE 221 COULD POSSIBLY ACHIEVE CONSENSUS.

12. DISPUTE SETTLEMENT - AS PART OF DISCUSSIONS WITH A
VIEW TO PACKAGE NEGOTIATIONS, SOVIET AND US EXPERTS
WORKED ON THE FORMULATION OF A DISPUTE SETTLEMENT REGIME
ON BOUNDARY DELIMITATION THAT MIGHT BE ACCEPTABLE TO THE
SOVIET UNION, WHICH IS IN PRINCIPLE OPPOSED TO ANY
COMPULSORY SETTLEMENT IN THIS AREA. AT WEEK'S END,
HOWEVER, IT WAS UNCLEAR WHETHER BOUNDARY DISPUTE
SETTLEMENT WOULD BE INCLUDED IN ANY PACKAGE DISCUS-
SIONS.

13. A BALANCED SET OF COMPROMISE TEXTS, INCLUDING SOME
FOR WHICH THE SOVIETS HAD INDICATED SUPPORT, WERE SUB-
MITTED PRIVATELY TO NG-7 CHAIRMAN MANNER BY DR. SOHN
(US). MANNER DECIDED TO HOLD THESE IN RESERVE FOR THE
PRESENT, PREFERRING INSTEAD TO BEGIN NG-7 DEBATE WITH

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CONSIDERATION OF THE MORE COMPREHENSIVE SURVEY OF
COMPROMISES PREPARED BY SOHN'S EXPERT GROUP AT THE END
OF THE GENEVA MEETING.

14. A SUBSTANTIALLY REVISED TEXT ON SEABEDS DISPUTE
SETTLEMENT, DRAFTED BY THE SECRETARIAT, WAS SURFACED AT
A PRIVATE AND CONFIDENTIAL MEETING OF COMPARATIVE LAW
EXPERTS. THE EXPERTS, INCLUDING A US REPRESENTATIVE, MET
UNDER THE CHAIRMANSHIP OF MR. ZULETA. THEY AGREED THAT A
COMPLETE OVERHAUL OF THE ICNT IN THIS AREA WOULD BE
INADVISABLE, BUT DECIDED TO CONTINUE MEETING IN AN
EFFORT TO IMPROVE THE PRESENT ARTICLES.

15. THE DRAFTING COMMITTEE BEGAN ITS WORK ON A
TECHNICAL REVIEW OF THE LANGUAGE STRUCTURE OF THE ICNT.
SIX GROUPS (ONE FOR EACH OFFICIAL UN LANGUAGE) WERE
ESTABLISHED TO RESOLVE TEXTUAL DISCREPANCIES AND
STANDARDIZE INTERNAL REFERENCES. THE US CHAIRS THE
ENGLISH LANGUAGE TEAM WHILE THE OTHER MAJOR SECURITY
COUNCIL STATES (SUCH AS CHINA) WHO ARE NOT ON THE FORMAL
DRAFTING COMMITTEE WILL PARTICIPATE THROUGH THE
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LANGUAGE GROUPS. LEONARD

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